

**FOURTH AMENDMENT TO THE
CITY OF EUGENE DEFERRED COMPENSATION PLAN
(As Amended and Restated Effective as of January 1, 2012)**

WHEREAS, the City of Eugene (the "City") maintains the City of Eugene Deferred Compensation Plan (As Amended and Restated Effective as of January 1, 2012) (the "Plan") for the benefit of its eligible employees; and

WHEREAS, pursuant to Section 8.01 of the Plan, the City has the power to amend the Plan at any time; and

WHEREAS, it is the desire of the City to amend provisions of the Plan regarding In-Plan Roth Conversions to implement new liberal rules promulgated under the American Taxpayer Relief Act of 2012.

NOW, THEREFORE, in consideration of the foregoing, Section 2.14 of the Plan is hereby amended, effective as of December 1, 2015, to read as prescribed below.

2.14 In-Plan Roth Conversion.

A Participant, the surviving spouse of a deceased Participant, or a Participant's spouse or former spouse who is an alternate payee under a qualified domestic relations order, may elect an In-Plan Roth Conversion in accordance with this Section 2.14.


- (a) An In-Plan Roth Conversion is a transfer of amounts held in a Participant's account under the Plan that is not a designated Roth Account to a designated Roth Account established on the Participant's behalf. An In-Plan Roth Conversion shall comply with the provisions of Code § 402A(c)(4) and the regulations and guidance issued under that Code section.
- (b) An In-Plan Roth Conversion shall be one of two types:
 - (i) A "Distributable Amount Conversion," which is a qualified transfer of an amount otherwise distributable under the Plan, as described in Code § 408A(e); or
 - (ii) A "Non-distributable Amount Conversion," which is a qualified transfer of an amount not otherwise distributable under the Plan, as described in Code § 402A(c)(4)(E).
- (c) A Distributable Amount Conversion may be accomplished by either a direct transfer within the Plan, or by a distributee's rollover contribution made within 60 days after receipt of an eligible distribution. A Non-distributable Amount Conversion cannot be made in the form of a 60-day rollover.

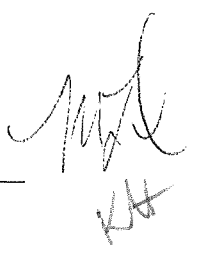
- (d) Amounts from any of a Participant's Accounts under the Plan (other than as a current Roth Account), including from an Employer Contribution Account, if applicable, may be transferred to a designated Roth account under the Plan as an In-Plan Roth Conversion.
- (e) A Distributable Amount Conversion is subject to the rollover notice requirements of Code § 402(f). A Non-distributable Roth Conversion is not subject to such notice requirements.
- (f) A designated Roth Account to which a Non-distributable Amount Conversion is transferred will remain subject to the restrictions on distributions that apply to the amounts transferred. Consequently, distributions from such designated Roth Accounts generally cannot be made prior to the Participant's termination of employment or attainment of age 70½.
- (g) The value of either form of an In-Plan Roth Conversion is included in the Participant's or other electing individual's gross income for the year of the conversion.

* * *

This Fourth Amendment and its provisions are approved and accepted.

CITY OF EUGENE

By: 
Jon R. Ruiz
City Manager



Dated: 7/16/15, 2015

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**SECOND AMENDMENT TO THE
CITY OF EUGENE DEFERRED COMPENSATION PLAN
(As Amended and Restated Effective as of January 1, 2012)**

WHEREAS, the City of Eugene (the "City") maintains the City of Eugene Deferred Compensation Plan (As Amended and Restated Effective as of January 1, 2012) (the "Plan") for the benefit of its eligible employees; and

WHEREAS, pursuant to Section 8.01 of the Plan, the City has the power to amend the Plan at any time; and

WHEREAS, it is the desire of the City to amend the Plan to:

- Accept rollover contributions from former employees; and
- Clarify the right of an alternate payer to designate a beneficiary with respect to a Qualified Domestic Relations Order.

NOW, THEREFORE, in consideration of the foregoing, Section 2.12(a) and Section 4.12 of the Plan are hereby amended, effective as of May 1, 2014, to read as prescribed below. New language is double underlined; deleted language is ~~struckout~~.

2.12 Eligible Rollover Contributions to Plan.

- (a) A Participant ~~who is an employee, including a Participant who is a former Employee,~~ and who is entitled to receive an eligible rollover distribution from another eligible retirement plan may request to have all or a portion contributed to the Plan as a "rollover contribution." The Employer, or its delegate, may require such documentation from the distributing plan as it deems necessary to effectuate the rollover contribution in accordance with Code § 402 and to confirm that such plan is an eligible retirement plan within the meaning of Code § 402(c)(8)(B). Notwithstanding any other provision in this section, the Plan will accept a rollover contributions to a Roth elective deferral account only if it is a direct rollover from another Roth elective deferral account under an applicable retirement plan described in Code § 402(e)(1) and only to the extent the rollover is permitted under the rules of Code§ 402(c).

* * *

4.12 Beneficiary Designation.


- (a) Benefits under the Plan that are distributable by reason of a Participant's death shall be distributed to the person effectively designated by the Participant as his or her Beneficiary. To be effective, a Beneficiary designation must be filed with the Services Provider in such form as the Service Provider requires, and may include contingent or successive Beneficiaries. A Participant may change his or her Beneficiary designation at any time by filing with the Service Provider a new Beneficiary designation.

- (b) A Beneficiary designation form must be filed by a Participant in accordance with procedures established or approved by the Service Provider with respect to the Plan.
- (c) If a Participant dies and has not filed an effective Beneficiary designation or has revoked all such designations, or has filed an effective designation but the designated Beneficiary (or Beneficiaries) predeceases the Participant, the distributable portion of the Participant's Accounts shall be paid to the Participant's surviving spouse, or to the Participant's domestic partner (if declared by an Affidavit of Domestic Partnership filed with the Employer for health insurance coverage purposes or if recognized by a Certificate of Registered Domestic Partnership issued by a county clerk). If there is no surviving spouse or eligible domestic partner, as applicable, then the balance of the Participant's Accounts shall be paid to the Participant's estate.
- (d) If a Beneficiary survives the Participant but dies prior to distribution of the entire balance of the Participant's Accounts, the remaining balance shall be paid to the Beneficiary's estate unless (i) the Participant's beneficiary designation provides for a successive contingent beneficiary, or (ii) the Beneficiary has properly designated a Beneficiary. A Beneficiary may only designate a Beneficiary for the balance of the Participant's Accounts remaining at the Beneficiary's death if the Participant has not previously designated a successive contingent beneficiary and the Beneficiary's designation otherwise complies with the terms of the Plan.
- (e) A Beneficiary may either be a natural person or a trust, the beneficiary of which is a natural person.
- (f) An Alternate Payee with respect to a Qualified Domestic Relations Order ("QDRO") described in Section 8.04 shall have the same rights, and shall be subject to the same rules, as a Participant in regard to the designation of Beneficiary to receive any remaining benefits assigned to the Alternate Payee under the QDRO upon the Alternate Payee's death. The provisions of subsection (c), regarding the distribution of a deceased Participant's benefits in the absence of a beneficiary designation, shall also pertain to a deceased Alternate Payee.

* * *

This Second Amendment and its provisions are approved and accepted.

CITY OF EUGENE

By: 
Jon Ruiz
City Manager

Dated: 6/4/14, 2014

**FIRST AMENDMENT TO THE
CITY OF EUGENE DEFERRED COMPENSATION PLAN
(As Amended and Restated Effective as of January 1, 2012)**

WHEREAS, the City of Eugene (the "City") maintains the City of Eugene Deferred Compensation Plan (As Amended and Restated Effective as of January 1, 2012) (the "Plan") for the benefit of its eligible employees; and

WHEREAS, pursuant to Section 8.01 of the Plan, the City has the power to amend the Plan at any time; and

WHEREAS, it is the desire of the City to amend the Plan to:

- Increase the rate of Employer contributions for non-represented employees; and
- Provide for future Employer contributions for AFSCME-represented employees.

NOW, THEREFORE, in consideration of the foregoing, Section 2.11 of the Plan is hereby amended to read as prescribed below.

2.11 Employer Contributions.

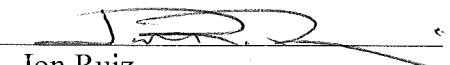
- (a) Subject to the limitations prescribed in Article III, and the conditions prescribed in subsection (b) below:
 - (i) Effective as of July 1, 2013, for each pay period for which a Regular Non-Represented Employee makes a Deferral of at least 1% of the Employee's base compensation for the pay period, the Employer shall make an Employer Contribution to the Plan on behalf of the Employee equal to 2.5% of the Employee's base compensation for the pay period.
 - (ii) Effective as of July 1, 2014, for each pay period for which a Regular Non-Represented Employee makes a Deferral of at least 1% of the Employee's base compensation for the pay period, the Employer shall make an Employer Contribution to the Plan on behalf of the Employee equal to 3% of the Employee's base compensation for the pay period.
 - (iii) Effective as of July 1, 2014, for each pay period for which an AFSCME-Represented Employee makes a Deferral of at least 1% of the Employee's base compensation for the pay period, the Employer shall make an Employer Contribution to the Plan on behalf of the Employee equal to 1% of the Employee's base compensation for the pay period.
 - (iv) Effective as of July 1, 2015, for each pay period for which an AFSCME-Represented Employee makes a Deferral of at least 1% of the Employee's base compensation for the pay period, the Employer shall make an Employer Contribution to the Plan on behalf of the Employee equal to 2% of the Employee's base compensation for the pay period.

- (b) In order to receive an Employer Contribution for any pay period, the Employee must defer the minimum required amount each pay period (as prescribed in Section 3.01(a)), and must also have selected a pre-tax investment fund with the Services Provider to which such Employer Contributions will be allocated, even if all of the Employee's Deferrals are after-tax Roth Deferrals.
- (c) For purposes of this Section 2.11, Employee's "base compensation" for a pay period means his or her regularly scheduled salary compensation, excluding bonuses, overtime, and other extra pay, but including such other amount as may be determined or utilized by the Committee.
- (d) Notwithstanding the foregoing, the Employer Contribution, if any, to be made on behalf of an executive or any other Employee for any Plan Year, if applicable, will be determined in accordance with the express provisions of the written contract then in effect between the Employer and the Employee. Such contribution will be in lieu of the Employer Contribution prescribed in subsection (a) above, unless the terms of the written contract expressly provide otherwise.

* * *


This First Amendment and its provisions are approved and accepted.

CITY OF EUGENE

By: 
Jon Ruiz
City Manager

Dated: 7/19, 2013

Witness:


Myrnie Daut
Risk Services Director

Dated: 7/19, 2013

CITY OF EUGENE
DEFERRED COMPENSATION PLAN
(As Amended and Restated Effective as of January 1, 2012)

**CITY OF EUGENE
DEFERRED COMPENSATION PLAN**

TABLE OF CONTENTS

	<u>Page</u>
<u>GENERAL</u>	1
ARTICLE I. Definitions	2
1.01 <u>Account</u>	2
1.02 <u>Alternate Payee</u>	2
1.03 <u>Basic Pension Plan</u>	2
1.04 <u>Beneficiary</u>	2
1.05 <u>Code</u>	3
1.06 <u>Committee</u>	3
1.07 <u>Compensation</u>	3
1.08 <u>Custodian</u>	4
1.09 <u>Deferrals</u>	4
1.10 <u>Eligible Deferred Compensation Plan</u>	4
1.11 <u>Eligible Employee</u>	4
1.12 <u>Eligible Governmental Plan</u>	4
1.13 <u>Employee</u>	5
1.14 <u>Employer</u>	5
1.15 <u>Employer Contribution</u>	5
1.16 <u>Fund Provider</u>	5
1.17 <u>Includible Compensation</u>	5
1.18 <u>Normal Retirement Age</u>	5
1.19 <u>Participant</u>	5
1.20 <u>Participation Agreement</u>	6
1.21 <u>Plan</u>	6
1.22 <u>Plan Year</u>	6
1.23 <u>Public Safety Employee</u>	6
1.24 <u>Regular Non-Represented Employee</u>	6
1.25 <u>Represented Employee</u>	6
1.26 <u>Services Provider</u>	6
1.27 <u>Severance from Employment</u>	6
1.28 <u>Trust Agreement</u>	7
1.29 <u>Trust Fund</u>	7
1.30 <u>Trustee</u>	7
1.31 <u>Valuation Date</u>	7
ARTICLE II. Participation and Contributions	8
2.01 <u>Eligibility</u>	8
2.02 <u>Election Required for Participation</u>	8
2.03 <u>Commencement of Participation</u>	9
2.04 <u>Deferral Restrictions or Adjustments</u>	9
2.05 <u>Amendment or Revocation of Deferral Election</u>	9
2.06 <u>Designation of Investment Funds Selection</u>	10
2.07 <u>Information Provided by the Participant</u>	10

2.08	<u>Leave of Absence</u>	10
2.09	<u>Disability</u>	10
2.10	<u>Contributions Made Promptly</u>	10
2.11	<u>Employer Contributions for Regular Non-Represented Employees</u>	10
2.12	<u>Eligible Rollover Contributions to Plan</u>	11
2.13	<u>Plan-to-Plan Transfers to the Plan</u>	12
2.14	<u>In-Plan Roth Rollovers</u>	12
ARTICLE III. Limitations on Amounts Deferred		13
3.01	<u>Basic Annual Deferral Limitation</u>	13
3.02	<u>Age 50 Catch-up Annual Deferral Contributions</u>	13
3.03	<u>Special §457 Catch-up Limitations</u>	13
3.04	<u>Special Rules</u>	14
3.05	<u>Correction of Excess Deferrals</u>	15
ARTICLE IV. Distributions		16
4.01	<u>Eligibility for Distributions</u>	16
4.02	<u>Unforeseeable Emergency Withdrawal</u>	16
4.03	<u>Voluntary Small Account Withdrawal</u>	17
4.04	<u>Age 70½ and Rollover Contribution Withdrawals</u>	18
4.05	<u>Plan-to-Plan Transfers from the Plan</u>	18
4.06	<u>Commencement of Distributions</u>	18
4.07	<u>Required Minimum Distributions</u>	19
4.08	<u>Participant's Payment Options</u>	19
4.09	<u>Default Distribution Option</u>	20
4.10	<u>Eligible Rollover Distributions</u>	20
4.11	<u>Permissive Service Credit Transfers</u>	21
4.12	<u>Beneficiary Designation</u>	22
4.13	<u>Facility of Payment</u>	22
4.14	<u>Qualified Premium Payments for Retired Public Safety Employees</u>	23
ARTICLE V Treatment of Reemployed Military Personnel		24
5.01	<u>General</u>	24
5.02	<u>Reemployed Uniformed Service Participant</u>	24
5.03	<u>Definitions</u>	24
5.04	<u>Report Back to Work Period</u>	25
5.05	<u>Documentation</u>	26
5.06	<u>Restoration of Deferred Compensation Contributions</u>	26
5.07	<u>Restoration of Employer Contributions</u>	26
5.08	<u>No Restoration of Lost Earnings</u>	26
5.09	<u>Application of Plan and Code Limits</u>	26
5.10	<u>Deemed Compensation</u>	27
5.11	<u>Survivor Benefits</u>	27
5.12	<u>Permissive Distributions</u>	27
ARTICLE VI. Plan Administration		28
6.01	<u>Employer Authority</u>	28
6.02	<u>Deferred Compensation Committee</u>	28
6.03	<u>Trustee</u>	29
6.04	<u>Fund Provider</u>	29

6.05	<u>Services Provider</u>	29
6.06	<u>Engagement of Advisors</u>	29
6.07	<u>Indemnification</u>	30
6.08	<u>Claims Procedure</u>	30
6.09	<u>Payment of Expenses</u>	31
6.10	<u>Recaptured Fees</u>	32
ARTICLE VII. Declaration of Trust and Trust Fund		34
7.01	<u>Scope of Trust Provisions</u>	34
7.02	<u>Designation of Trust and Trustee</u>	34
7.03	<u>Assets to be held in Trust</u>	34
7.04	<u>Management and Control of Trust Fund</u>	34
7.05	<u>Investment Policy</u>	35
7.06	<u>Trustee's Administrative Powers</u>	35
7.07	<u>Investment Funds and Elections</u>	36
7.08	<u>Limitation on Reversions</u>	37
7.09	<u>Appointment of Successor Trustee</u>	38
7.10	<u>Protection of Persons Dealing with the Trust</u>	38
7.11	<u>Tax-Exempt Status</u>	38
7.12	<u>Fiscal Year</u>	38
ARTICLE VIII. Miscellaneous		39
8.01	<u>Amendment or Termination</u>	39
8.02	<u>No Guarantee of Employment</u>	39
8.03	<u>Non-Alienation of Benefits</u>	39
8.04	<u>Qualified Domestic Relations Order</u>	39
8.05	<u>IRS Levy</u>	40
8.06	<u>Mistaken Contributions</u>	40
8.07	<u>Procedure When Distributee Cannot Be Located</u>	40
8.08	<u>Receipts by Participants</u>	40
8.09	<u>Interpretation</u>	40
8.10	<u>Controlling Law</u>	40
8.11	<u>Severability</u>	41
8.12	<u>Gender and Number</u>	41

CITY OF EUGENE DEFERRED COMPENSATION PLAN

GENERAL

1. **Purpose.**

It is the intention of the City of Eugene (the "Employer") to continue to maintain the City of Eugene Deferred Compensation Plan (the "Plan") in accordance with the provisions of Section 457 of the Code and other provisions of law relating to Eligible Deferred Compensation Plans. Upon the transfer of any funds to the Plan in accordance with its provisions, all interest of the Employer therein shall cease, and no portion of the assets of the Plan shall be used for, or diverted to, purposes other than the exclusive benefit of Participants and their beneficiaries and the defrayal of reasonable expenses of administering the Plan, except as may otherwise be provided by law.

2. **Source of Funds.**

The Plan shall be funded and maintained by deferred compensation contributions made by Participants, by contributions made by the Employer, and by such net earnings as are realized from the investment of the assets of the Plan.

3. **Effective Date of Restatement.**

The Plan is a continuation of the plan that was originally adopted in 1975. The provisions of the Plan as amended and restated shall be effective as of January 1, 2012, except as may be specifically provided otherwise. Except as may be required by the Code, the rights of any person whose status as an Eligible Employee has terminated shall be determined pursuant to the Plan as in effect on the date such status terminated, unless a subsequently adopted provision of the Plan is made specifically applicable to such person.

ARTICLE I

Definitions

When used in the Plan, certain terms are capitalized and have the respective meanings set forth in this Article or in certain other Articles of the Plan.

1.01 Account.

The bookkeeping account maintained with respect to each Participant that reflects the value of the deferred Compensation credited to the Participant, including the Participant's Deferrals, any Employer Contributions made for the Participant, the earnings or loss of an investment fund (net of fund expenses) allocable to the Participant, any transfers for the Participant's benefit, and any distribution made to the Participant or the Participant's Beneficiary. If a Participant has more than one Beneficiary at the time of the Participant's death, then each Beneficiary's share of the balance of the Participant's Account shall be treated as a separate account for that Beneficiary. An Account includes any account established for rollover contributions and plan-to-plan transfers made for a Participant, an account established for a Beneficiary after a Participant's death, and any account or accounts established for an Alternate Payee.

Contributions and withdrawals of Roth Deferrals will be credited and debited to a separate Roth Deferral Account maintained for each Participant. The Plan will retain a record of the amount of Roth Deferrals in each Participant's Account. Gains, losses, and other credits or charges must be separately allocated on a reasonable and consistent basis to each Participant's Roth Deferral Account and the Participant's other Accounts under the Plan. No contributions other than Roth Deferrals and properly attributable earnings will be credited to a Participant's Roth Deferral Account.

1.02 Alternate Payee.

Alternate Payee means the spouse, former spouse, child or other dependent of a Participant who has acquired an interest in the Participant's Account pursuant to a Qualified Domestic Relations Order (QDRO) described in Section 8.04. Alternate Payees shall be treated as Beneficiaries for all purposes under the Plan, except that Alternate Payees shall be allowed to request a distribution of all or a portion of their Account balance at any time, subject to the terms of the QDRO.

1.03 Basic Pension Plan.

The basic defined benefit pension plan covering the Participant. Such plan may either be the defined benefit plan component of the Oregon Public Employees Retirement System (PERS) or the Oregon Public Service Retirement Plan (OPSRP).

1.04 Beneficiary.

The person who is entitled to receive benefits under the Plan after the death of a Participant, as designated or otherwise identified in Section 4.12.

1.05 Code.

The Internal Revenue Code of 1986, as now in effect or as hereafter amended. All citations to sections of the Code are to such sections as they may from time to time be amended or renumbered.

1.06 Committee.

The Deferred Compensation Committee appointed by the Employer to assist it in the discharge of its responsibilities, as more fully described in Section 6.02.

1.07 Compensation.

All cash compensation of an Employee for services rendered to the Employer, including salary, wages, fees, commissions, bonuses, and overtime pay, that is includible in the Employee's gross income for the calendar year, plus amounts that would be cash compensation for services to the Employer includible in the Employee's gross income for the calendar year but for a compensation reduction election under Code §§125, 132(f), 401(k), 403(b), or 457(b) (including an election to defer compensation made under Article II of the Plan).

Any payments described below made to a Participant after a Severance from Employment shall qualify as Compensation for purposes of the Plan, but only if the payments are made by the end of the calendar year during which the Participant incurs a Severance from Employment or, if later, within two and one-half months following the date of the Participant's Severance from Employment:

- (a) Payments that, absent a Severance from Employment, would have been paid to the Participant while the Participant continued in employment with the Employer, but only if such payments constitute regular compensation for services during the Participant's regular working hours, compensation for services outside the Participant's regular working hours (such as overtime or a shift differential), commissions, bonuses or other similar compensation;
- (b) Payments for accrued bona fide sick, vacation or other leave, but only if the Participant would have been able to use the leave if employment had continued; and
- (c) Payments received by the Participant pursuant to a nonqualified unfunded deferred compensation plan, but only if the payment would have been paid to the Participant at the same time if the Participant had continued in employment with the Employer and only to the extent that the payment is includible in the Participant's gross income.

Any payment that is not described above shall not be considered Compensation if it is paid after the date of the Participant's Severance from Employment, even if it is paid within two and one-half months of such date. Thus, for example, Compensation does not include severance pay. It also does not include post-severance payments from an unfunded nonqualified deferred compensation amount unless the payments would have been paid at that time without regard to the Participant's Severance from Employment.

The foregoing rules that generally disregard Compensation paid after a Participant's Severance from Employment do not apply to payments to an individual who has separated from the service of the Employer by reason of qualified military service (within the meaning of Code §414(u)) to the extent those payments do not exceed the amounts the individual would have received if the

individual had continued to perform services for the Employer rather than entering qualified military service.

1.08 Custodian.

A bank, trust company or other person, if any, selected by the Employer that is authorized to hold Plan assets in a custodial account in accordance with Treasury Regulation §1.457-8(a)(3).

1.09 Deferrals.

The amount of Compensation deferred by a Participant under this Plan for any period.

Effective March 1, 2012, the term "Deferral" shall include:

- (a) A Pre-Tax Deferral, which is a Deferral made pursuant to the Participant's election under Section 2.02 with respect to which the Participant has not made an irrevocable Roth election described in (b) below.
- (b) A Roth Deferral, which is a Deferral, made pursuant to the Participant's election under Section 2.02, that is:
 - (i) Designated irrevocably by the Participant at the time of the cash or deferred election as a Roth Deferral that is being made in lieu of all or a portion of the Pre-Tax Deferrals the Participant is otherwise eligible to make under the Plan; and
 - (ii) Treated by the Employer as not excludable from the Participant's gross income.

1.10 Eligible Deferred Compensation Plan.

An eligible deferred compensation plan within the meaning given to it by Code §457 and the regulations thereunder.

1.11 Eligible Employee.

"Eligible Employee" means any Regular Non-Represented Employee or Represented Employee of the Employer. The term "Eligible Employee" shall expressly exclude as with respect to any period a leased employee, an independent contractor, or any other individual performing services for the Employer who for the period at issue had not been treated by the Employer as an employee for employment tax purposes, without regard to whether the individual is subsequently determined to have been an employee of the Employer during such period for employment tax or other purposes.

1.12 Eligible Governmental Plan.

An Eligible Deferred Compensation Plan of a state or local government as described in Code §457(e)(1)(A).

1.13 Employee.

Each common-law employee of the Employer.

1.14 Employer.

The City of Eugene, an Oregon municipality.

1.15 Employer Contribution.

A contribution made by an Employer on behalf of a Participant with respect to which the Participant does not have the choice to receive the contribution in cash or property, as prescribed in Section 2.11. Employer Contributions are not eligible to be designated as Roth Deferrals described in 1.09(b).

1.16 Fund Provider.

An institution that the Employer has selected to make investment funds available to Participants under the Plan, as described in Section 6.04.

1.17 Includible Compensation.

An Employee's actual wages as reported in box 1 of Form W-2 for a year for services to the Employer, but subject to a maximum of \$250,000 (or such higher maximum as may apply under Code §401(a)(17)) and increased (up to the dollar maximum) by any compensation reduction election under Code §§125, 132(f), 401(k), 403(b), or 457(b) (including an election to defer Compensation made under Article II of the Plan). The amount of such Includible Compensation shall be determined without regard to any community property laws or any "pick-up contributions" described in Code §414(h) made by the Employer to a retirement plan on the Employee's behalf.

1.18 Normal Retirement Age.

Age 70½, unless the Participant has elected an alternate Normal Retirement Age and delivered such election to the Services Provider or its delegate prior to beginning to make Special §457 Catch-up contributions as described in Section 3.03 of the Plan. Once a Participant has commenced making Special §457 Catch-up contributions, the Participant's designated Normal Retirement Age may not be changed.

For Participants eligible to receive benefits under a Basic Pension Plan, a Participant's alternate Normal Retirement Age may be any age that is on or after the earlier of age 65 or the age at which the Participant has the right to retire and receive immediate retirement benefits under a Basic Pension Plan, without actuarial or similar reduction because of retirement before some later specified age. The date selected may not be later than age 70½.

Notwithstanding the foregoing, a Participant who is a Public Safety Employee may choose a Normal Retirement Age that is not earlier than age 40, nor later than age 70½.

1.19 Participant.

An Employee who is currently deferring Compensation, or who has previously deferred Compensation under the Plan by salary reduction or who has received an Employer Contribution, and who has not received a distribution of his or her entire benefit under the Plan.

1.20 Participation Agreement.

The agreement entered into by an Eligible Employee pursuant to Article II, in which the Employee elects to make Deferrals under the Plan.

1.21 Plan.

This City of Eugene Deferred Compensation Plan, as in effect from time to time.

1.22 Plan Year.

The calendar year.

1.23 Public Safety Employee.

An Employee who is deemed to be a firefighter or a police officer as defined under Code §415(b)(2)(H)(ii)(I).

1.24 Regular Non-Represented Employee.

An Employee of the Employer who is not represented by a labor union and who is regularly scheduled to work at least 20 hours per week for 12 months per year. "Regularly scheduled to work" excludes casual, emergency or intermittent employment.

1.25 Represented Employee.

A regular full-time or regular part-time Employee of the Employer who is either:

- (a) Represented by the International Association of Firefighters, the Eugene Police Employees' Association, or the American Federation of State, County, and Municipal Employees (AFSCME), including a Recreation Activity Employee as defined in the most recent labor agreement between AFSCME and the Employer; or
- (b) A member of the International Alliance of Theatrical Stage Employees (IATSE) bargaining unit eligible for Employer-provided health insurance benefits as established by the most recent labor agreement between IATSE and the Employer.

1.26 Services Provider.

ING, or any other organization engaged by the Employer, as prescribed in Section 6.05, to provide record-keeping and other administrative services under the Plan.

1.27 Severance from Employment.

The date a Participant dies, retires, or otherwise has a severance from employment with the Employer (as may be determined by and taking into account guidance issued by the Internal Revenue Service). A Participant whose employment is interrupted by qualified military service under Code §414(u) shall be deemed to be severed from employment until such time as the Participant is reemployed following the term of duty.

1.28 Trust Agreement.

The declaration of trust, the terms of which are set forth in Article VII hereof, under which the Trust Fund is maintained.

1.29 Trust Fund.

The holdings of trust fund created under and subject to the Trust Agreement, plus amounts held in any custodial account or annuity contract, as applicable.

1.30 Trustee.

The Trustee duly appointed and currently serving as the Trustee of the Trust Fund maintained under the Plan, as described in Section 6.03.

1.31 Valuation Date.

Each business day.

ARTICLE II

Participation and Contributions

2.01 Eligibility.

Any Eligible Employee may elect to become a Participant in the Plan, and to thereupon defer the current receipt of a designated portion of his or her Compensation, by filing a Participation Agreement as prescribed in Section 2.02 below.

2.02 Election Required for Participation.

- (a) An Eligible Employee may elect to become a Participant by entering into a Participation Agreement to defer a portion of his or her Compensation (and have that amount contributed as a Deferral on his or her behalf) and submitting it in good order to the Employer's Central Payroll Office. The Participant Agreement shall be made available by the Employer, including through its Employee Benefits Program website. Effective March 1, 2012, the Plan accepts Roth Deferrals made on behalf of Participants.
- (b) In entering into the Participation Agreement, the Eligible Employee elects to participate in this Plan and consents to the deferral by the Employer of the amount specified in the Participation Agreement from the Participant's gross Compensation for each payroll period, and agrees to be bound by all the terms and conditions of the Plan. Such deferral shall continue in effect until modified or revoked in accordance with Section 2.05, or until the Participant ceases employment with the Employer.
- (c) Any former Employee who was a Participant in the Plan and is rehired by Employer as an Eligible Employee may resume participation in the Plan by entering into a Participation Agreement so long as any distributions then being received from this Plan are terminated prior to the resumption of deferrals under the Plan. Additionally, if distributions to the rehired Employee had not begun pursuant to a prior Severance from Employment, any deferred commencement date elected by such Employee with respect to distribution of those prior Plan assets shall be null and void.
- (d) A Participant who has not had a Severance of Employment and who is entitled to receive accumulated sick pay, accumulated vacation pay or back pay may make a separate election to defer all or a portion of such Compensation under the Plan. These amounts may be deferred for any calendar month only if a Participation Agreement providing for the deferral is entered into before the beginning of the month in which the amounts would otherwise be paid or made available, and the Participant is an Employee on the date the amounts would otherwise be paid or made available. For this purpose, Compensation that would otherwise be paid for a payroll period that begins before a Participant's Severance from Employment is treated as an amount that would otherwise be paid or made available before the Severance from Employment.

Notwithstanding the foregoing, a Participant who is retiring or has had a Severance from Employment may elect to defer his or her accumulated sick, vacation, or back pay, or other post-termination payments treated as Compensation as described in Section 1.07, provided that the election is made before the beginning of the month in which the Compensation would otherwise have been payable.

2.03 Commencement of Participation.

An Eligible Employee shall become a Participant as soon as administratively practicable following the date the Eligible Employee files a Participation Agreement pursuant to Section 2.02 above. Such election shall become effective no earlier than the first day of the calendar month following the month in which the election is made. A new Eligible Employee may defer Compensation payable in the calendar month during which the Participant first becomes an Employee if a Participation Agreement providing for the Deferral is entered into on or before the first day on which the Participant performs services for the Employer.

2.04 Deferral Restrictions or Adjustments.

The Employer retains the right to establish minimum Deferral amounts per payroll period, and to change such minimums from time to time. No adjustment in future Deferrals shall be made if a periodic Deferral is missed or is less than the amount elected. The Employer, or the Services Provider acting on behalf of the Employer, shall have the right to modify or disallow the amount of a periodic Deferral of Compensation elected by the Participant:

- (a) In excess of the limitations stated in Article III;
- (b) In excess of the Participant's net Compensation for any payroll period;
- (c) Upon any change in the length of payroll period utilized by Employer. In such case, the periodic Deferral shall be adjusted so that approximately the same percentage of pay shall be deferred on an annual basis;
- (d) In order to round periodic Deferrals to the nearest whole dollar amount;
- (e) To reduce the future Deferrals in the event that the amount actually deferred for any payroll period exceeds, for any reason whatsoever, the amount elected by the Participant. In the alternative, such amount of excess Deferral may be refunded to the Participant; or
- (f) If the Deferral elected for any payroll period is less than the minimum amount specified by the Employer.

2.05 Amendment or Revocation of Deferral Election.

- (a) Subject to other provisions of the Plan, a Participant may at any time revoke or modify his or her Participation Agreement, including a change of the amount of his or her Deferrals, or a change to the Participant's designation of his or her future Deferrals as Roth Deferrals or Pre-Tax Deferrals. The revocation or modification shall be made by submitting a new Participation Agreement with the Employer's Central Payroll Office. The new Participation Agreement shall become effective no earlier than the first day of the calendar month after the month in which it has been submitted in accordance with procedures established by the Employer or the Employer's delegate.
- (b) A Participant who revokes the Participation Agreement may again become a Participant by submitting a new Participation Agreement to the Employer's Central Payroll Office. The new Participation Agreement will become effective no earlier than the first day of the calendar month after the month in which the new Participation Agreement is entered into by the Participant and properly submitted under the Plan.

2.06 Designation of Investment Funds Selection.

An Eligible Employee's Participation Agreement, or such other form as approved by the Services Provider, shall include the Employee's designation of investment funds as described in Section 7.07. Any such election shall remain in effect until a new election is filed.

2.07 Information Provided by the Participant.

Each Employee enrolling in the Plan should provide to the Services Provider at the time of initial enrollment, and later if there are any changes, any information necessary or advisable, in the sole discretion of the Services Provider, for the Services Provider to administer the enrollment aspects of the Plan. An Employee should also provide to the Services Provider information as to whether the Employee is a participant in any other Eligible Deferred Compensation Plan.

2.08 Leave of Absence.

Unless an election is otherwise revised, if a Participant is absent from work by leave of absence, Deferrals under the Plan shall continue to the extent that Compensation continues.

2.09 Disability.

A disabled Participant may elect Deferrals during any portion of the period of his or her disability to the extent that he or she has actual Compensation (not imputed Compensation and not disability benefits) from which to make contributions to the Plan and has not had a Severance from Employment.

2.10 Contributions Made Promptly.

Deferrals by the Participant under the Plan shall be transferred to the Trust Fund within a period that is not longer than is reasonable for the proper administration of the Participant's Account. For this purpose, Deferrals shall be treated as contributed within a period that is not longer than is reasonable for the proper administration if the contribution is made to the Trust Fund within 15 business days following the end of the month in which the amount would otherwise have been paid to the Participant.

2.11 Employer Contributions for Regular Non-Represented Employees.

- (a) Subject to the limitations prescribed in Article III, for each pay period for which a Regular Non-Represented Employee makes a Deferral of at least three percent of the employee's base compensation for the pay period, the Employer shall make an Employer Contribution to the Plan on behalf of the employee. The Employer Contribution shall be equal to two percent of the employee's base compensation for the pay period.
- (b) For purposes of this Section 2.11, a Regular Non-Represented Employee's "base compensation" for a pay period means his or her regularly scheduled salary compensation, excluding bonuses, overtime, and other extra pay, but including such other amount as may be determined or utilized by the Committee.
- (c) Notwithstanding the foregoing, the Employer contribution, if any, to be made on behalf of an executive or any other Employee for any Plan Year will, if applicable, be determined in accordance with the express provisions of the written contract then in effect between the Employer and the Employee. Such contribution will be in lieu of the

contribution prescribed in subsection (a) above, unless the terms of the written contract expressly provide otherwise.

2.12 Eligible Rollover Contributions to Plan.

- (a) A Participant who is an Employee and who is entitled to receive an eligible rollover distribution from another eligible retirement plan may request to have all or a portion contributed to the Plan as a "rollover contribution." The Employer, or its delegate, may require such documentation from the distributing plan as it deems necessary to effectuate the rollover contribution in accordance with Code §402 and to confirm that such plan is an eligible retirement plan within the meaning of Code §402(c)(8)(B). Notwithstanding any other provision in this section, the Plan will accept a rollover contribution to a Roth elective deferral account only if it is a direct rollover from another Roth elective deferral account under an applicable retirement plan described in Code §402A(e)(1) and only to the extent the rollover is permitted under the rules of Code §402(c).
- (b) The Plan shall accept a rollover contribution (including a rollover of after-tax contributions) from any of the following tax-deferred retirement arrangements:
 - (i) Another Eligible Deferred Compensation Plan that is maintained by a state or local government described in Code §457(e)(1)(A);
 - (ii) A retirement plan qualified under Code §401(a) (including a Code §401(k) plan);
 - (iii) An annuity plan or annuity contract described in Code §403(a) or (b); or
 - (iv) An Individual Retirement Account or Individual Retirement Annuity described in Code §408(a) or (b), but only to the extent that the amount would otherwise be includible in gross income (without regard to the rollover).
- (c) A Participant whose spouse has died may elect a rollover contribution of the distribution of the spouse's benefits under a plan, subject to the conditions prescribed in this Section 2.12.
- (d) A rollover contribution must be made either from the Participant concerned within 60 days of the Participant's receipt thereof, or directly from the eligible retirement plan to which it pertains.
- (e) Any rollover contribution made by a Participant to the Plan during a Plan Year shall be allocated as of the date received to a separate rollover contribution Account established and maintained on the Participant's behalf. A Participant shall at all times be fully vested and have a nonforfeitable interest in the balance of his or her rollover contribution Account.
- (f) If the Plan accepts an amount as a rollover contribution based on the reasonable conclusion of the Employer or its delegate that the contribution is a valid rollover contribution, but it is later determined that the rollover contribution did not satisfy the statutory or regulatory rollover rules, a distribution shall be made to the affected Participant in an amount equal to such invalid rollover contribution, plus any earnings attributable thereto.

- (g) Rollover contributions shall not be taken into account for purposes of applying the compensation deferral limits prescribed under this Article II, but shall otherwise be treated under the Plan in the same manner as compensation deferrals.
- (h) The Services Provider shall establish and maintain for the Participant under the Plan a separate Account for any eligible rollover distribution paid to the Plan from any eligible retirement plan that is not an Eligible Governmental Plan. Similarly, the Services Provider shall establish and maintain for the Participant a separate Account for any eligible rollover distribution paid to the Plan from any Eligible Governmental Plan.

2.13 Plan-to-Plan Transfers to the Plan.

The Employer may permit a class of Participants who are participants in another Eligible Governmental Plan to transfer assets to the Plan as provided in this Section 2.13. Such a transfer is permitted only if the other plan provides for the direct transfer of each Participant's interest therein to the Plan. The Employer in its sole discretion may require that the transfer be in cash or other property acceptable to the Employer. The Employer may require such documentation from the other plan as it deems necessary to effectuate the transfer in accordance with Code §457(e)(10) and Treasury Reg. §1.457-10(b), and to confirm that the other plan is an eligible governmental plan as defined in Treasury Reg. §1.457-2(f). The amount so transferred shall be credited to the Participant's Account and shall be held, accounted for, administered and otherwise treated in the same manner as a Deferral by the Participant under the Plan, except that the transferred amount shall not be considered a Deferral under the Plan in determining the maximum deferral under Article III.

2.14 In-Plan Roth Rollovers.

With respect to distributions made on or after March 1, 2012, a Participant, the surviving spouse of a deceased Participant, or a Participant's spouse or former spouse who is an alternate payee under a qualified domestic relations order (distributee) may elect an In-Plan Roth Rollover, as defined in (a) below, of all or part of an eligible distribution, as defined in (b) below.

- (a) An In-Plan Roth Rollover is a qualified rollover contribution, within the meaning of Code §408A(e), to a designated Roth account in the Plan. An In-Plan Roth Rollover may be accomplished by either a direct rollover or by a distributee's rollover contribution made within 60 days after receipt of an eligible distribution. An In-Plan Roth Rollover shall comply with the provisions of Code §402A(c)(4) and the regulations and guidance issued under that section.
- (b) An eligible distribution means a vested amount held in a Plan account for a Participant, other than an amount held in a designated Roth account, which satisfies the following requirements:
 - (i) The amount is permitted to be distributed under the applicable Code provisions governing eligible retirement plans under Code §457(b). If an amount could be distributed under the Code, but is not distributable because of more restrictive distribution provisions imposed by the Plan, the distributee may elect an In-Plan Roth Rollover in the form of a direct rollover, but not a 60-day rollover.
 - (ii) The amount is an eligible rollover distribution, as defined in Code §402(c)(4).

ARTICLE III

Limitations on Amounts Deferred

3.01 Basic Annual Deferral Limitation.

- (a) The maximum amount of the Deferrals that may be made by a Participant under the Plan for any calendar year shall not exceed the lesser of:

- (i) The Applicable Dollar Amount (as defined in subsection (b) below); or
- (ii) The Participant's Includible Compensation for the calendar year.

The minimum dollar amount of such elective Deferrals shall be \$12.50 per pay period, or such other minimum amount as may be designated by the Employer from time to time.

- (b) The Applicable Dollar Amount is the amount established under Code §457(e)(15), which is \$17,000 for 2012. For years after 2012, the \$17,000 will be subject to increase under Code §415(d) to reflect cost-of-living adjustments.
- (c) Any Employer Contribution made by the Employer on behalf of any Participant for a calendar year shall be applied against the annual Deferral limit for that year.
- (d) Rollover amounts received by the Plan under Treasury Reg. §1.457-10(e), and any plan-to-plan transfer into the Plan made pursuant to Section 2.13, shall not be applied against the annual Deferral limit.

3.02 Age 50 Catch-up Annual Deferral Contributions.

- (a) A Participant who will attain age 50 or more by the end of the calendar year is permitted to elect an additional amount of Deferrals, up to the maximum age 50 catch-up annual Deferrals for the year. The maximum dollar amount of the age 50 catch-up annual Deferrals for 2012 is \$5,500. For years after 2012, the maximum dollar amount will be subject to adjustment to reflect increases in cost-of-living. Age 50 catch-up annual Deferral contributions are subject to the requirements of Code §414(v).
- (b) The amount of the age 50 catch-up Deferrals prescribed in subsection (a) above for any calendar year cannot exceed the amount of the Participant's Compensation, reduced by the amount of the elective deferred compensation, or other elective deferrals, made by the Participant under the Plan or any other retirement plan maintained by the Employer, for that calendar year.
- (c) The age 50 catch-up annual Deferral Contribution is not available to a Participant for any calendar year for which the Special Section 457 Catch-up Limit described in Section 3.03 below is available and applied.

3.03 Special §457 Catch-up Limitations.

Notwithstanding the provisions of Section 3.01 and 3.02 above, with respect to a year that is one of a Participant's last three (3) calendar years ending before the year in which the Participant attains Normal Retirement Age, if the amount determined under this Section 3.03 for that year

exceeds the amount computed under Sections 3.01 and 3.02, then the annual Deferral limit applicable to the Participant under this Section shall be the lesser of:

- (a) An amount equal to two (2) times the Section 3.01 Applicable Dollar Amount for such year; or
- (b) The sum of:
 - (i) An amount equal to the aggregate Section 3.01 limit for the current year plus each prior calendar year beginning after December 31, 2001, during which the Participant was a Eligible Employee under the Plan or a Predecessor Plan, minus the aggregate amount of Compensation that the Participant deferred under the Plan or a Predecessor Plan during such years; plus
 - (ii) An amount equal to the aggregate limit referred to in Code §457(b)(2) for each prior calendar year beginning after December 31, 1978, and before January 1, 2002, during which the Participant was an Eligible Employee under the Plan or a Predecessor Plan (determined without regard to Sections 3.02 and 3.03), minus the aggregate contributions to Pre-2002 Coordination Plans (as defined in Section 3.04(c) below) made by or on behalf of the Participant for such years.

However, in no event can the deferred amount be more than the Participant's Compensation for such years, unless the Employer is making non-elective Employer Contributions on behalf of the Participant.

3.04 Special Rules.

For purposes of this Article III, the following rules shall apply:

- (a) Participant Covered By More Than One Eligible Plan. If the Participant is or has been a participant in one or more other eligible plans within the meaning of Code §457(b), then this Plan and all such other plans shall be considered as one plan for purposes of applying the foregoing limitations of this Article III. For this purpose, the Services Provider shall take into account any other such eligible plan maintained by the Employer, and shall also take into account any other such eligible plan for which the Services Provider receives from the Participant sufficient information concerning his or her participation in such other plan.
- (b) Pre-Participation Years. In applying Section 3.03, a year shall be taken into account only if the Participant was eligible to participate in the Plan during all or a portion of the year and Compensation deferred, if any, under the Plan during the year was subject to the Basic Annual Limitation described in Section 3.01 or any other plan ceiling required by Code §457(b).
- (c) Pre-2002 Coordination Plans. For purposes of Section 3.03(b)(ii) above, "contributions to Pre-2002 Coordination Plans" means any employer contribution, salary reduction or elective contribution under any other eligible Code §457(b) plan, or a salary reduction or elective contribution under any Code §401(k) qualified cash or deferred arrangement, Code §402(h)(1)(B) simplified employee pension (SARSEP), Code §403(b) annuity contract, and Code §408(p) simple retirement account, or under any plan for which a deduction is allowed because of a contribution to an organization described in Code §501(c)(18), including plans, arrangements or accounts maintained by the Employer or any employer for whom the Participant performed services. However, the contributions

for any calendar year are only taken into account for purposes of Section 3.03(b)(ii) to the extent that the total of such contributions does not exceed the aggregate limit referred to in Code §457(b)(2) for that year.

- (d) Disregard Excess Deferral. For purposes of Sections 3.01, 3.02 and 3.03, an individual is treated as not having deferred compensation under a plan for a prior taxable year to the extent excess Deferrals under the plan are distributed, as described in Section 3.05. To the extent that the combined Deferrals for pre-2002 years exceeded the maximum Deferral limitations, the amount is treated as an excess Deferral for those prior years.

3.05 Correction of Excess Deferrals.

If the annual Deferrals with respect to a Participant for any calendar year, when combined with any Employer Contributions made for the Participant for that calendar year, exceed the limitations described above in this Article III, or if the annual Deferrals and Employer Contributions made by or with respect to a Participant for any calendar year exceed the limitations described above when combined with other amounts deferred by the Participant under another eligible deferred compensation plan under Code §457(b) for which the Participant provides information that is accepted by the Services Provider, then the annual Deferrals, to the extent in excess of the applicable limitation (adjusted for any income or loss in value, if any, allocable thereto), shall be distributed to the Participant. The distribution shall be reported as taxable income in accordance with applicable IRS rules. If a Participant made both Pre-Tax Deferrals and Roth Deferrals for a calendar year in which the Participant has excess Deferrals, the Participant may elect the type of Deferrals to be included in a corrective distribution under this section, but only to the extent those types of Deferrals were made for the year.

ARTICLE IV

Distributions

4.01 Eligibility for Distributions.

Pursuant to Code Section 457, and as more fully discussed in this Article IV, a distribution from a Participant's Account may be made only by reason of one of the following events incurred by, or with respect to, the Participant:

- (a) The Participant's death, retirement or other Severance from Employment with the Employer;
- (b) An approved Unforeseeable Emergency described in Section 4.02;
- (c) The approval of a qualified voluntary small account withdrawal described in Section 4.03;
- (d) The attainment of age 70½, as described in Section 4.04;
- (e) A request for a withdrawal from the Participant's rollover contribution Account pursuant to Section 4.04;
- (f) An approved direct plan-to-plan transfer, as described in Section 4.05; or
- (g) The assignment of the Participant's benefits pursuant to a Qualified Domestic Relations Order, as described in Section 8.04.

Distributions shall be requested and made in accordance with procedures established from time to time by the Services Provider.

4.02 Unforeseeable Emergency Withdrawal.

A Participant who incurs an Unforeseeable Emergency (as defined below), or a Participant whose Primary Beneficiary (as defined below) incurs a qualified Unforeseeable Emergency, may submit a request to the Services Provider for a withdrawal equal to that portion (or all) of the individual's Account as is then needed to alleviate the financial hardship resulting therefrom. Such withdrawals shall be subject to the following provisions of this Section 4.02.

- (a) The following definitions shall apply for purposes of this Section 4.02.
 - (i) An "Unforeseeable Emergency," as with respect to a Participant or Primary Beneficiary, means a severe financial hardship of such individual resulting from a sudden and unexpected illness or accident of the individual, or of the spouse or a dependent (as defined in Code Section 152(a)) of the Participant; the loss of the Participant's property due to casualty (including the need to rebuild a home following damage to a home not otherwise covered by homeowner's insurance, for example, as a result of a natural disaster); the need to pay for the funeral expenses of the Primary Beneficiary, or for the Participant's spouse or dependent (as defined in Code §152, without regard to Code §152(b)(1), (b)(2), and (d)(1)(B)); or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the individual. For example, the

imminent foreclosure of or eviction from the Participant's primary residence may constitute an Unforeseeable Emergency. In addition, the need to pay for medical expenses, including non-refundable deductibles, as well as for the cost of prescription drug medication, may constitute an Unforeseeable Emergency. However, neither the purchase of a home nor the payment of college tuition is an Unforeseeable Emergency.

- (ii) A "Primary Beneficiary" of a Participant is an individual who is named as a Beneficiary of the Participant under the Plan, and who has an unconditional right to all, or a portion of, the Participant's Account balance under the Plan upon the death of the Participant.
- (b) A withdrawal shall not be permitted under this Section 4.02 to the extent that the hardship resulting from the Unforeseeable Emergency is, or may be, relieved:
 - (i) Through the reimbursement or compensation by insurance or otherwise;
 - (ii) By the liquidation of the Participant's assets, to the extent the liquidation of such assets would not itself cause severe financial hardship; or
 - (iii) By the cessation of deferrals under the Plan.
- (c) The amount of any Unforeseeable Emergency withdrawal shall be limited to that which the Services Provider determines is reasonably necessary to alleviate the hardship resulting from the occurrence of the Unforeseeable Emergency (which may include any amount necessary to pay any federal or state income taxes or penalties reasonably anticipated to result from the distribution).
- (d) After reviewing each Unforeseeable Emergency withdrawal request, the Services Provider shall make a determination as to whether the circumstances satisfy the Unforeseeable Emergency standards prescribed above, and will thereupon notify the requesting Participant of the determination. If the request is approved, the Services Provider shall process payment of the withdrawal.
- (e) The Employer reserves the right to review all Unforeseeable Emergency withdrawal requests made by Participants to determine whether applicable standards are satisfied.
- (f) The denial of a request for an Unforeseeable Emergency withdrawal shall be treated as a denial of a claim for a benefit under the Plan, and shall thus be subject to the claim and review provisions set forth under Section 6.08.

4.03 Voluntary Small Account Withdrawal.

A Participant who has not terminated employment with the Employer may nevertheless elect to receive a distribution of all or a portion of the Participant's Account balance under the Plan, provided that the following conditions are satisfied:

- (a) No amount has been deferred under the Plan by or for the Participant during the two-year period ending on the date of the distribution;
- (b) The value of the Participant's Account under the Plan (other than amounts attributable to any rollover contribution) does not exceed \$5,000 (or, if greater, the applicable dollar limit then in effect under Code Section 411(a)(11)); and

- (c) The Participant has not previously received a small account distribution from the Plan.

4.04 Age 70½ and Rollover Contribution Withdrawals.

- (a) A Participant who has not terminated employment with the Employer as of the first day of the calendar year in which the Participant shall attain age 70½ may then, or anytime thereafter, withdraw part or all of the balance of his or her Accounts.
- (b) A Participant on whose behalf a rollover contribution Account is maintained may withdraw part or all of the balance of such Account at any time.

4.05 Plan-to-Plan Transfers from the Plan.

- (a) The Employer may permit a class of Participants and Beneficiaries to elect to have all or any portion of their Accounts transferred to another Eligible Governmental Plan. An in-service transfer is permitted under this Section 4.05 only if the Participant is transferring to another Eligible Governmental Plan maintained by Employer. In all other circumstances, a transfer is permitted under this Section 4.05(a) for a Participant only if the Participant has had a Severance from Employment with the Employer and is an employee of the entity that maintains the other Eligible Governmental Plan. Further, a transfer is permitted under this Section 4.05(a) only if the other Eligible Governmental Plan provides for the acceptance of plan-to-plan transfers with respect to the Participants and Beneficiaries, and for each Participant and Beneficiary to have an account established under the other plan immediately after the transfer that has a balance that is at least equal to the amount transferred.
- (b) Upon the transfer of assets under this Section 4.05, the Plan's liability to pay benefits to the Participant or Beneficiary under this Plan shall be discharged to the extent of the amount so transferred for the Participant or Beneficiary. The Employer may require such documentation from the receiving plan as it deems appropriate or necessary to comply with this Section 4.05 (for example, to confirm that the receiving plan is an Eligible Governmental Plan, and to assure that the transfer is permitted under the receiving plan) or to otherwise effectuate the transfer pursuant to Treasury Reg. §1.457-10(b).

4.06 Commencement of Distributions.

- (a) Except as otherwise provided in this Section 4.06, a Participant who is eligible for a distribution from the Plan may request to receive all or part of the distributable balance of his or her Accounts at any time. The processing of such distribution request shall be subject to administrative rules and procedures established by the Services Provider or other financial institution maintaining such Account, and shall be expressly conditioned upon the submission of a properly completed distribution election form and other documents prescribed by the administrative practices of the Services Provider, the Plan or applicable law.
- (b) Except as may otherwise be provided under the Plan, Accounts shall not be made or commence being paid to the Participant without the Participant's consent. A distribution may be made to a Participant without the consent of the Participant's spouse, if any.
- (c) Any method or form of distribution selected by the Participant must be designed to pay the Participant the value of his or her benefits under the Plan over a period not to exceed the Participant's life or life expectancy or the joint lives or life expectancy of the Participant and the Participant's designated Beneficiary. The life expectancy of a

Participant and the joint life expectancy of a Participant and the Participant's designated Beneficiary shall be determined in accordance with applicable law and regulations; provided that the life expectancy of a Participant or the Participant's spouse (if the designated Beneficiary) may from time to time be redetermined, but not more frequently than annually.

- (d) In no event shall any distribution under this Section 4.06 commence later than the later of (a) April 1 of the year following the calendar year in which the Participant attains age 70 1/2 or (b) April 1 of the year following the year in which the Participant retires or otherwise has a Severance from Employment.

4.07 Required Minimum Distributions.

All distributions under this Plan shall be determined and made in accordance with a reasonable and good faith interpretation of Code §401(a)(9). The provisions of this Plan reflecting the requirements of Code §401(a)(9) shall take precedence over any inconsistent provisions of this Plan. Those requirements include the following:

- (a) Distributions to a Participant shall be made or begun not later than the Participant's required beginning date, and shall be made over a period not to exceed the Participant's life (or life expectancy) or the joint lives (or life expectancies) of the Participant and his or her designated beneficiary. A Participant's "required beginning date" is April 1 of the calendar year immediately following the calendar year in which the Participant has both reached age 70½ and has retired.
- (b) If a Participant dies after distributions have begun in accordance with (a) above, but before receiving the entire amount of his or her Plan benefits, the remaining portion of the benefits shall be distributed at least as rapidly as under the distribution method being used at the time of the Participant's death.
- (c) If a Participant dies before distributions have begun in accordance with (a) above, the entire amount of the Participant's Plan benefits shall be distributed within five years after the Participant's death, except as otherwise provided in (i) or (ii) below.
 - (i) If any portion of the Participant's Plan benefit is payable to, or for the benefit of, a designated beneficiary, that portion may be distributed over a period not to exceed the designated beneficiary's life (or life expectancy), provided that the distributions begin not later than one year after the Participant's death or, if later, by the date prescribed in regulations issued under Code §401(a)(9).
 - (ii) If the designated beneficiary is the Participant's surviving spouse, the rules in (i) shall apply, except that the distributions to the surviving spouse are not required to begin before the date on which the Participant would have reached age 70½, and if the surviving spouse dies before distributions to the spouse begin, paragraphs (b) and (c) of this Section 4.07 shall be applied as if the surviving spouse were the Participant.

4.08 Participant's Payment Options.

Subject to applicable law and the other provisions of this Plan, distributions of a Participant's Accounts shall be made in accordance with one of the following payment options, as elected by the Participant:

- (a) A single lump-sum payment of the entire Account balance, or a partial lump sum distribution, in combination with other options;
- (b) A distribution over the Participant's lifetime.
- (c) A distribution over a set time period, as specified by the Participant. The payment period may extend any longer than the life expectancy of the Participant as permitted under Code §401(a)(9). The amount of each variable payment shall be determined by dividing the Participant's current portfolio balance by the number of remaining payments;
- (d) A systematic withdrawal of the Participant's account of a specified amount; and
- (e) Through the purchase of an annuity contract provide single life, and joint and survivor life, options.

Subject to the required minimum distribution rules of Section 4.07, a Participant who is receiving benefit distributions (other than pursuant to an annuity contract) may elect to receive the remaining balance of the Participant's Accounts pursuant in another form of payment option made available under the Plan. Such election shall be made with the Services Provider, and shall be subject to such rules and procedures as may be prescribed by the Services Provider.

4.09 Default Distribution Option.

In the absence of an effective election by the Participant as to the commencement or form of benefits, distributions shall be made in accordance with the applicable requirements of Code §401(a)(9) and §457(d), and final Treasury regulations thereunder. In the absence of an effective election by the Beneficiary or Alternate Payee as to the commencement or form of benefits, distribution shall be made in a lump sum.

4.10 Eligible Rollover Distributions.

- (a) General. Notwithstanding any provision of the Plan to the contrary that would otherwise limit an election under this section, a Participant, the surviving spouse of a Participant (or a Participant's former spouse who is the alternate payee under a qualified domestic relations order as defined in Code §414(p)) (herein collectively called "distributee") may elect, at the time and in the manner prescribed by the Services Provider, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan in a direct rollover.
- (b) Definitions. For purposes of this section, the following definitions shall apply.
 - (i) Eligible Rollover Distribution. An eligible rollover distribution is any distribution of all, or any portion, of the balance of an Account to the credit of the distributee, except that an eligible rollover distribution does not include any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten (10) years or more; any distribution to the extent such distribution is required under Code §401(a)(9); any deemed distribution under the provisions of Code §72(p); the portion of any distribution that is not includable in gross income except as specifically described in this paragraph; any distribution of excess Deferrals; and any distribution made on account of an Unforeseeable Emergency.

For purposes of this section, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, any such portion may be transferred only to an individual retirement account or annuity described in Code §408(a) or (b), to a qualified plan described in Code §401(a) or §403(a), or an annuity contract described in Code §403(b), that provides for separate accounting for amounts so transferred (and earnings thereon), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not includible in gross income. The amount transferred shall be treated as consisting first of the portion of such distribution that is includible in gross income, determined without regard to Code §402(c)(1). A direct rollover of a distribution from a participant's Roth 401(k) account or Roth rollover account will be made only to the extent the rollover is permitted under the rules of Code §402(c).

- (ii) Eligible Retirement Plan. An eligible retirement plan is an individual retirement account described in Code §408(a), an individual retirement annuity provided in Code §408(b) (other than an endowment contract), a Roth IRA, to the extent described in Code §408A(e)(1), an annuity plan described in Code §403(a), a qualified trust described in Code §401(a) (including §401(k)), a tax-sheltered annuity described in Code §403(b), or another eligible deferred compensation plan described in Code §457(b) that is maintained by an eligible governmental employer described in Code §457(e)(1)(A), and that agrees to separately account for amounts transferred into such plan from this Plan. Notwithstanding the foregoing, a direct rollover of a distribution from a Roth Deferral account under the Plan may be made only to another Roth elective deferral account under an applicable retirement plan described in Code §402A(e)(1) or to a Roth IRA described in Code §408A.
- (iii) Distributee. A distributee includes an Employee or former Employee. In addition, the Employee's or former Employee's surviving spouse, and the Employee's or former Employee's spouse or former spouse who is the Alternate Payee under a qualified domestic relations order, as defined in Code §414(p), are distributees with regard to the interest of the spouse or former spouse.
- (iv) Direct Rollover. A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.
- (c) Non-Spousal Beneficiaries. if a distribution would qualify as an "eligible rollover distribution" under (b) except that it is payable to a deceased Participant's designated beneficiary, the beneficiary may elect to have the distribution paid in a direct rollover to his or her individual retirement plan. For this purpose, a "designated beneficiary" means the Participant's designated beneficiary for purposes of the required minimum distribution requirements of Code §401(a)(9). An "individual retirement plan" means an individual retirement account described in Code §408(a) or an individual retirement annuity described in Code §408(b), other than an endowment contract, that is established for the purpose of receiving the distribution on behalf of the designated beneficiary..

4.11 Permissive Service Credit Transfers.

- (a) If a Participant is also a participant in a tax-qualified defined benefit governmental plan (as defined in Code §414(d)) that provides for the acceptance of plan-to-plan transfers

with respect to the Participant, then the Participant may elect to have any portion of the Participant's Account transferred to the defined benefit governmental plan. A transfer under this Section 4.11(a) may be made before the Participant has had a Severance from Employment.

- (b) A transfer may be made under Section 4.11(a) if the transfer is either for the purchase of permissive service credit (as defined in Code §415(n)(3)(A)) under the receiving defined benefit governmental plan or a repayment to which Code §415 does not apply by reason of Code §415(k)(3), or as otherwise allowed by the Internal Revenue Service.

4.12 Beneficiary Designation

- (a) Benefits under the Plan that are distributable by reason of a Participant's death shall be distributed to the person effectively designated by the Participant as his or her Beneficiary. To be effective, a Beneficiary designation must be filed with the Services Provider in such form as the Service Provider requires, and may include contingent or successive Beneficiaries. A Participant may change his or her Beneficiary designation at any time by filing with the Service Provider a new Beneficiary designation.
- (b) A Beneficiary designation form must be filed by a Participant in accordance with procedures established or approved by the Service Provider with respect to the Plan.
- (c) If a Participant dies and has not filed an effective Beneficiary designation or has revoked all such designations, or has filed an effective designation but the designated Beneficiary (or Beneficiaries) predeceases the Participant, the distributable portion of the Participant's Accounts shall be paid to the Participant's surviving spouse, or to the Participant's domestic partner (if declared by an Affidavit of Domestic Partnership filed with the Employer for health insurance coverage purposes or if recognized by a Certificate of Registered Domestic Partnership issued by a county clerk). If there is no surviving spouse or eligible domestic partner, as applicable, then the balance of the Participant's Accounts shall be paid to the Participant's estate.
- (d) If a Beneficiary survives the Participant but dies prior to distribution of the entire balance of the Participant's Accounts, the remaining balance shall be paid to the Beneficiary's estate unless (i) the Participant's beneficiary designation provides for a successive contingent beneficiary, or (ii) the Beneficiary has properly designated a Beneficiary. A Beneficiary may only designate a Beneficiary for the balance of the Participant's Accounts remaining at the Beneficiary's death if the Participant has not previously designated a successive contingent beneficiary and the Beneficiary's designation otherwise complies with the terms of the Plan.
- (e) A Beneficiary may either be a natural person or a trust, the beneficiary of which is a natural person.

4.13 Facility of Payment

If the Services Provider determines that a Participant or Beneficiary entitled to receive any benefits hereunder is a minor, is adjudged to be legally incapable of giving valid receipt and discharge for such benefits, or is otherwise under a legal disability or is incapacitated in any way so as to be unable to manage his or her affairs, benefits will be paid to such person as the Services Provider may designate for the benefit of the Participant or Beneficiary. Such payments shall be considered a payment to such Participant or Beneficiary and shall, to the extent made, be deemed a complete discharge of any liability for such payments under the Plan.

4.14 Qualified Premium Payments for Retired Public Safety Employees.

- (a) A Participant who is an “eligible retired public safety officer” may elect to have qualified health insurance premiums deducted from amounts to be distributed to the Participant from the Plan, and to have such amounts paid directly to the insurer or group health plan, subject to the provisions of this Section 4.14. “Qualified health insurance premiums” include premiums for accident and health insurance (including under a self-insured plan) or qualified long-term care insurance contracts for the Participant and his or her spouse and dependents. It is intended that, pursuant to Code §402(l), the distribution shall be excluded from the Participant’s gross income to the extent that the aggregate amount of the distributions does not exceed the amount used to pay the qualified health insurance premiums of the Participant and his or her spouse and dependents. To be effective, the election must be made upon or after the Participant’s separation from service, and must apply to amounts not yet distributed from the Plan.
- (b) A Participant shall qualify as an “eligible retired public safety officer” for purposes of this Section 4.14 only if the Participant is an individual who separated from service, either by reason of disability or after attainment of normal retirement age, as a public safety officer with the Employer. Consequently, a public safety officer who retires before attainment of normal retirement age is not an eligible retired public safety officer unless the public safety officer retires by reason of disability. For purposes of this Section, a Participant’s “normal retirement age” means the earliest date the Participant has the right to retire and receive immediate retirement benefits under a Basic Pension Plan, without actuarial or similar reduction because of retirement before some later specified age.
- (c) For purposes of this Section 4.14, the term “public safety officer” means an individual serving the Employer in an official capacity, with or without compensation, as a law enforcement officer, a firefighter, a chaplain, or as a member of a rescue squad or ambulance crew.
- (d) In order to avoid unintended taxation, the aggregate amount that a Participant may elect to have directly distributed to an insurer or group health plan pursuant to this Section 4.14 for any calendar year should be limited to \$3,000.

ARTICLE V

Treatment of Reemployed Military Personnel

5.01 General.

The Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) requires that an eligible Participant who leaves covered employment to perform services in a Uniformed Service, and who thereafter timely returns to work with the Employer, generally be provided the same benefits under the Plan that such individual would have been entitled had such individual remained in covered employment throughout that period of military service. Accordingly, notwithstanding any provision of the Plan to the contrary, the following provisions of this Article V shall be applicable with respect to any Reemployed Uniformed Service Participant who applies for reemployment or otherwise reports back to work with the Employer.

5.02 Reemployed Uniformed Service Participant.

For purposes of this Article V, a "Reemployed Uniformed Service Participant" means an individual:

- (a) Who was an active Participant in the Plan, or an Eligible Employee, and who becomes absent from the employ of the Employer in order to perform service in a Uniformed Service;
- (b) Whose cumulative period of service in the Uniformed Services has not exceeded five years (or such extended period as permitted in special circumstances under the USERRA, such as where the individual is ordered to active duty by reason of a national emergency);
- (c) Who upon the completion of such service in such Uniformed Service timely reports back to work with, and is thereupon reemployed by, the Employer;
- (d) Whose separation from the Uniformed Services is not based on other than honorable conditions; and
- (e) Who otherwise is eligible for the reemployment rights prescribed under the USERRA.

5.03 Definitions.

For purposes of this Article V:

- (a) The term "Uniformed Services" means:
 - (i) The Armed Forces;
 - (ii) The Army National Guard and the Air National Guard as with respect to an individual who is then engaged in active duty for training, in active duty training, or full-time National Guard duty;
 - (iii) The commission corps of the Public Health Service; and
 - (iv) Any other category of persons designated by the President in time of war or emergency.

- (b) “Service in the Uniformed Services” means the performance of duty on a voluntary or involuntary basis in a Uniformed Service, and specifically includes active duty, active duty for training, initial active duty for training, inactive duty training, and full-time National Guard duty. A period for which a Participant is absent from a position of employment for the purpose of an examination to determine the fitness to perform any of the above-described duties is also to be treated as service in the Uniformed Services.
- (c) “Qualified Military Service” means any service in the Uniformed Services by a Reemployed Uniformed Service Participant if such Participant is entitled to reemployment rights under the USERRA with respect to such service.

5.04 Report Back to Work Period.

A Participant’s entitlement to the restorative benefits prescribed under this Article V is expressly conditioned upon the Participant’s timely applying for reemployment or reporting back to work, as applicable, upon the Participant’s completion of the Qualified Military Service. In this regard, the time period for submitting an application for reemployment or reporting back to work is determined by reference to the length of the period of the Participant’s Qualified Military Service, as prescribed below.

- (a) Short-Term Absences. If the period of the Participant’s Qualified Military Service was less than 31 days, or if the Participant was absent from employment for the purpose of an examination to determine the Participant’s fitness to perform service in the Uniformed Services (regardless of the length of such absence), then the Participant must generally have reported back to work not later than the second work day following the completion of the period of such Qualified Military Service. However, if through no fault of the Participant it was impossible or unreasonable for the Participant to report back to work by the otherwise applicable deadline, then the Participant must have reported back to work as soon as was possible.
- (b) Intermediate Absences. If the period of the Participant’s Qualified Military Service was for more than 30 days but less than 181 days, then the Participant generally must have applied for reemployment not later than 14 days after the completion of such service. However, if through no fault of the Participant it was impossible or unreasonable for the Participant to comply with this deadline, then the Participant must have applied for reemployment at the earliest possible date.
- (c) Long-Term Absences. In the case of a Participant, whose period of Qualified Military Service exceeded 180 days, then the Participant’s application for reemployment must have been submitted not later than 90 days after the completion of such service.
- (d) Extension for Disabled Individuals. In the case of a Participant who as of the otherwise applicable reemployment application deadline was hospitalized for, or convalescing from, an illness or injury incurred or aggravated during the period of Qualified Military Service, then such reemployment application deadline shall be extended to the end of the period that was necessary for the Participant to recover from such illness or injury. This disability extension period is limited to two years, or such greater period as may be warranted in order to accommodate any circumstances beyond the Participant’s control, which made the applying for reemployment within the two-year period impossible or unreasonable.

- (e) Effect of Employer Policy. The time periods described above shall be extended in accordance with any established rules and policies, and the general practices, of the Employer as pertaining to absences from scheduled work.

5.05 Documentation.

As an express condition to a Reemployed Uniformed Service Participant's entitlement to the restoration of benefits prescribed under this Article V, the Participant must, upon request, provide to the Employer such documentation as may be necessary to establish that:

- (a) The Participant's reemployment application was timely made;
- (b) The length of the Participant's absence did not exceed the maximum five-year (or extended) period of leave; and
- (c) The Participant is not ineligible for such restorative benefits by reason, for example, of a dishonorable discharge from the Uniformed Services.

5.06 Restoration of Deferred Compensation Contributions.

A Reemployed Uniformed Service Participant shall be entitled to make restorative Deferrals to the Plan in an amount not to exceed the amount of the Deferrals that such Participant could have so made had such Participant continued to be employed as an employee during the Qualified Military Service period. A Participant's restorative Deferrals must be made during the period commencing on the Participant's reemployment date and extending through a period equal to the lesser of (i) three times the period of the Participant's most recent Qualified Military Service, and (ii) five years. Notwithstanding the foregoing, a Participant shall not be permitted to make restorative Deferrals to the Plan after the date the Participant subsequently terminates employment with the Employer, unless the Participant again becomes reemployed during the repayment period set forth above.

5.07 Restoration of Employer Contributions.

A Reemployed Uniformed Service Participant who left service while a Regular Non-Represented Employee and who makes restorative Deferrals pursuant to Section 5.06 above shall be entitled under the Plan to restorative Employer Contributions described in Section 2.11 associated with such Deferrals.

5.08 No Restoration of Lost Earnings.

A Reemployed Uniformed Service Participant shall not be entitled to the crediting of any amounts representing the earnings that would have been realized on any restorative contributions had such contributions been made during the period of the Participant's Qualified Military Service. Restorative contributions, once so made to the Plan and allocated to a Participant's Accounts, shall thereafter be credited with earnings and losses in accordance with the general terms of the Plan.

5.09 Application of Plan and Code Limits.

Any restorative contributions made by or on behalf of any Reemployed Uniformed Services Participant shall be subject to the applicable limitations and conditions operative under the Plan with respect to the Plan Year or other applicable period to which the restorative contribution relates, and not with respect to the Plan Year or period during which such contribution was

actually made or allocated under the Plan. For purposes of applying any applicable limitations or conditions that are implicated by a Participant's restorative contributions, such restorative contributions shall be treated as having been made in equal monthly installments over the period of the Participant's absence for Qualified Military Service.

5.10 Deemed Compensation.

For purposes of both determining the amount of restorative contributions which may be made with respect to a Reemployed Uniformed Service Participant and applying any Plan limits or conditions as described in Section 5.9 above, such Participant shall be deemed to have received compensation from the Employer during the period of Qualified Military Service equal to the compensation that the Participant would have earned had the Participant remained in the employ of the Employer throughout such period. Such deemed compensation shall be determined on the basis of the basic rate of pay for the position held by the Participant immediately prior to the commencement of the Qualified Military Service absence. If the Participant's deemed compensation cannot be reasonably ascertained, then the Participant's deemed compensation shall be equal to the Participant's average compensation for the 12-month period immediately preceding the commencement of the Participant's Qualified Military Service absence (or, if shorter, for the actual period of the Participant's employment with the Employer preceding such Qualified Military Service absence).

5.11 Survivor Benefits.

The Beneficiary (or Beneficiaries) of a Participant who leaves employment to enter into Qualified Military Service within the meaning of Section 5.03(c) above, and who dies while performing such Qualified Military Service, shall be entitled to any additional benefits under the Plan (other than any benefits provided in connection with the period of the Qualified Military Service) that would have been provided if the Participant had timely returned to work with the Employer and then terminated employment on account of death.

5.12 Permissive Distributions.

A Participant who is performing Service in the Uniformed Services within the meaning of Section 5.03(b) above, who while performing such services has been on active duty for more than 30 days, and who is not otherwise treated as having separated from employment, shall be deemed to have separated from employment solely for purposes of eligibility to elect a distribution from the Plan. A Participant who elects to receive a distribution under this Section 5.12 shall be precluded from making any further Deferrals under this Plan until the beginning of the first payroll period coincident with or next following the end of a period of six months commencing with the date of the distribution.

ARTICLE VI

Plan Administration

6.01 Employer Authority.

- (a) The Employer shall be responsible for all fiduciary and administrative functions under the Plan only insofar as any such authority or responsibility is not assigned by or pursuant to the Plan to the Committee, or is not delegated to another fiduciary pursuant to subsection (b) below. The fiduciary authority and responsibility presumptively reserved to the Employer shall include the following:
 - (i) The designation of all fiduciaries of the Plan, including the right to remove or replace any of them;
 - (ii) The periodic monitoring and evaluating of the performance of all fiduciaries;
 - (iii) The employment of persons to provide services and advice necessary to the performance of the foregoing functions; and
 - (iv) All rights and powers necessary or convenient to the carrying out of its functions hereunder, whether or not such rights and powers are specifically enumerated herein.
- (b) The Employer, as the sponsor of the Plan, is further reposed with settlor functions as with respect to the Plan. These settlor functions, which do not implicate fiduciary considerations, include the following:
 - (i) The design of the Plan; and
 - (ii) The right to amend or terminate the Plan.
- (c) The Employer may delegate to the Committee or to any officer of the Employer any authority or responsibility reserved or assigned to the Employer pursuant to the Plan. In the event of any such delegation, any references to the authority, right or power of the Employer to act which are contained in any notice, disclosure or communication made with a view toward effectuating the purposes of the Plan shall be construed to include authority for such actions by the Committee or officer to whom the Employer has delegated its authority. Notwithstanding any other provision of the Plan, in the event that an action or direction of any person to whom authority reposed with the Employer under the Plan has been delegated conflicts with an action or direction of the Employer, then the authority of the Employer shall supersede that of the delegate with respect to such action or direction.

6.02 Deferred Compensation Committee.

- (a) The Employer has established a Deferred Compensation Committee (the "Committee") to assist the Employer in the administration of the Plan. The Committee, the members of whom shall be appointed by the Employer, shall have oversight responsibility with respect to the management of the investment funds held under the Plan, and shall perform such other acts attendant to the foregoing, including the following:

- (i) Establishing an investment policy, reviewing such investment policy on a regular and periodic basis, and effectuating such changes in such policy from time to time as it deems warranted or appropriate;
 - (ii) Appointing, monitoring the performance of and discharging a Fund Provider or investment advisor;
 - (iii) Determining the investment funds to which there are to be allocated the contributions made by Participants who decline or otherwise fail to make an investment election under Section 7.07(e); and
 - (iv) Performing such other duties as are assigned to the Committee under the Plan, or which are delegated to it by the Employer.
- (b) The Committee shall have the power to direct the Trustee to cause the assets of the Plan, or any portion thereof, to be invested or to continue to be invested in group annuity contracts, investment contracts or such other contracts issued by any insurance company as the Committee deems desirable. In connection with and as a part of any such contract with any insurance company, the Committee may grant to such insurance company such control over the investment of funds deposited with or paid to such insurance company as the Committee deems desirable. Any such contract with any insurance company may be held by the Trustee or may be held by an Employer outside of any trust, as the Committee may from time to time determine.
- (c) A member of the Committee may also be a Participant, but no Committee member shall have power to take part in any discretionary decision or action affecting his or her own interest as a Participant under this Plan unless such decision or action is upon a matter which affects all other Participants similarly situated and confers no special right, benefit or privilege not simultaneously conferred upon all other such Participants.

6.03 Trustee.

A Trustee appointed under the Plan shall serve as the custodian and legal owner of the Plan's beneficial interest in the Retirement Trust. The Trustee, in its role as such, shall have no discretion as to the selection of the investment funds to be made available under the Plan.

6.04 Fund Provider.

The Employer shall engage one or more Fund Providers from whom investment funds shall be made available to Participants.

6.05 Services Provider.

The Employer has engaged a Services Provider to assist the Employer and the Committee in regard to the administration of the Plan. Said assistance may include Plan enrollment, communication, education, distribution processing, record keeping and other administrative functions as to be prescribed in an agreement entered into between the Employer and Services Provider.

6.06 Engagement of Advisors.

The Employer or the Committee may employ on behalf of the Plan one or more persons to render advice with regard to any responsibility it may have under the Plan. Toward that end, the

Employer may appoint, employ and consult with legal counsel, actuaries, accountants, investment consultants, physicians or other advisors (who may be counsel, actuaries, accountants, consultants, physicians or other advisors for the Employer) and may also from time to time utilize the services of employees and agents of the Employer in the discharge of its responsibilities.

6.07 Indemnification.

To the full extent permitted by law, the Employer shall indemnify the members of the Committee and employees of the Employer for any liability or expenses, including attorneys' fees, arising from any threatened or pending action, suit or proceeding brought by the Participant or any Beneficiary thereof under the Plan or to enforce the individual's rights under the Plan, including any amendments, modification or termination hereof.

6.08 Claims Procedure.

- (a) Any person who believes that he or she is entitled to receive a benefit under the Plan, including one greater than that initially determined to be payable, may file a claim in writing with the Committee or its delegate.
- (b) The Committee shall within 90 days of the receipt of a claim either allow or deny the claim in writing. A denial of a claim shall be written in a manner calculated to be understood by the claimant and shall include:
 - (i) The specific reason or reasons for the denial;
 - (ii) Specific references to pertinent Plan provisions on which the denial is based;
 - (iii) A description of any additional material or information necessary for the claimant to perfect the claim and an explanation of why such material or information is necessary; and
 - (iv) An explanation of the Plan's claim review procedure.
- (c) A claimant whose claim is denied (or his duly authorized representative) may, within 60 days after receipt of denial of his or her claim:
 - (i) Submit a written request for review to the Committee;
 - (ii) Review pertinent documents; and
 - (iii) Submit issues and comments in writing.
- (d) A request for review received by the Committee shall be directed to a Claim Review Committee for its review and disposition. The Claim Review Committee as with respect to the review of any claim shall consist of the Employer's Risk Services Division Manager, and two or more members of the Committee appointed by the Risk Services Division Manager on an ad hoc basis.
- (e) The Claim Review Committee shall notify the claimant of its decision on review within 60 days of receipt of a request for review. The decision on review shall be written in a manner calculated to be understood by the claimant and shall include specific reasons for the decision and specific references to the pertinent Plan provisions on which the decision is based.

- (f) The 90-day and 60-day periods described in subsections (b) and (e), respectively, may be extended at the discretion of the Committee or Claim Review Committee, as applicable, for a second 90-day or 60-day period, as the case may be, provided that written notice of the extension is furnished to the claimant prior to the termination of the initial period, indicating the special circumstances requiring such extension of time and the date by which a final decision is expected.
- (g) The Committee and the Claims Review Committee are each expressly reposed with the discretionary authority and powers in regard to the review and disposition of claims, and for appeals of denied claims for benefits made under the Plan. Such authority and powers include, but are not limited to, the following:
 - (i) Considering and deciding all claims or appeals of benefit claims which have been denied, including affording a reasonable opportunity to any Participant or Beneficiary whose claim for benefits has been denied for a full and fair review of the decision denying the claim;
 - (ii) Construing and interpreting the terms of the Plan and of any documents pertaining to the Plan;
 - (iii) Construing and interpreting all laws and regulations as applicable to any claims for benefits made under the Plan;
 - (iv) Making any factual determinations, and applying such determinations to the terms of the Plan and issues arising under the Plan;
 - (v) Making a determination as to an individual's status as an Employee within the meaning of the Plan, which determination may take into account, but need not adhere to, a determination by a federal agency of such person's Employee status for purposes other than participation under the Plan; and
 - (vi) Deciding all questions regarding an individual's benefit entitlements under the Plan.
- (h) Participants and Beneficiaries shall not be entitled to challenge a determination of the Committee or Claim Review Committee, as applicable, in judicial or administrative proceedings without first complying with the procedures in this Section 6.08. The decisions of the Claim Review Committee made pursuant to this section are intended to be final and binding on Participants, Beneficiaries and others. Any judicial proceedings in regard to a claim under the Plan must be filed within 90 days of the date on which notice of the denial of the claim appeal has been sent to the claimant or the claimant's representative, as applicable.

6.09 Payment of Expenses.

All expenses incident to the administration or protection of the Plan, and the management of the assets of the Plan, including but not limited to, investment fund management expenses, and investment consulting and legal fees, shall be paid from the assets of the Plan, unless the Employer chooses to pay such expenses directly. To the extent permitted by law, the Employer may be reimbursed from the Plan for any direct expenses properly and actually incurred in connection with the performance of services for the Plan.

6.10 Recaptured Fees.

- (a) The agreements entered into between the Employer and Fund Providers or Service Providers may state that a portion of revenue sharing amounts paid to the provider (such as "12b-1 fees") that are attributable to assets held or services provided under the Plan will be remitted by the provider to the Plan. Any such recaptured fees received by the Plan shall be held in an unallocated trust assets account maintained under the Plan (the "Recaptured Fees Account"), and thereafter shall be used exclusively for the benefit of Participants and their Beneficiaries, or to defray the reasonable expenses of administering and managing the Plan. Amounts held in the Recaptured Fees Account shall be credited to one or more investment funds made available by the Fund Provider, as directed by the Employer.
- (b) The expenses that may be paid from, or which may be reimbursed to the Employer for its payment of, include, but are not necessarily limited to, the following:
 - (i) Ongoing Plan administrative expenses, such as record keeping, legal, auditing, annual reporting, claims processing and similar administrative expenses;
 - (ii) Investment advisory or management service fees and expenses;
 - (iii) Costs incurred in preparing, printing and distributing Plan-related documents and other Participant communication materials;
 - (iv) Costs associated with benefit distributions;
 - (v) Expenses to provide investment assistance and education to Participants;
 - (vi) Costs for providing on-going education, including the costs of attending seminars and conferences, for members of the Committee and other fiduciaries with respect to the Plan as necessary or appropriate to assist in the discharge of their responsibilities to the Plan; and
 - (vii) Fiduciary liability insurance (other than with respect to a provision regarding a waiver of a right of recourse).

Expenses may be paid or reimbursed from the Recaptured Fees Account only upon the review and approval of the Risk Services Division Manager for the Employer, or by such other appropriate fiduciary of the Plan.

Amounts may also be paid directly from the Recaptured Fees Account to the Services Provider to pay the minimum level of revenue sharing amounts to which the Services Provider is entitled, all as prescribed under the services agreement entered into between the Employer and the Services Provider.

- (c) If the Committee determines that all Plan expenses and reserves therefore have been adequately provided for, and amounts in a portion of the Recaptured Fees Account are available to be reimbursed, the Committee will determine a cut-off date and amount of fees to be reimbursed to Participants, their Beneficiaries and alternate payees, as a credit to the expenses otherwise credited against their Accounts. The allocation of the reimbursed fees will be based upon the ratio of each Account balance in relation to the Account balances of all Participants, Beneficiaries and alternate payees as of the date selected by the Committee. The reimbursement will be allocated to each investment fund

under a Participant's, Beneficiary's or alternate payee's Account on a pro-rata basis based on their current investment allocation.

ARTICLE VII

Declaration of Trust and Trust Fund

7.01 Scope of Trust Provisions.

The provisions of this Article VII shall apply only if and to the extent that the Plan has any assets that are not held in a group annuity contract, or in any other custodial account or contract described in Code §401(f) (which accounts or contracts are hereafter referred to as "Exempt Contracts").

7.02 Designation of Trust and Trustee.

The trust maintained under this Plan shall be known as the "City of Eugene Deferred Compensation Trust" (the "Trust"). The Employer shall serve, without compensation for service, as Trustee of the Trust. The Employer, as Trustee of the Trust, shall act through the City Manager and such other person or persons designated in writing from time to time by the Employer. Any one of them may act for the Employer as Trustee without the consent of the others.

7.03 Assets to be held in Trust.

All amounts of Compensation deferred under this Plan, all amounts transferred to this Plan, all property and rights purchased with such amounts, and all income attributable to such amounts, property or rights, shall be held in the Trust, unless such amounts are held in an Exempt Contract described in Section 7.01 above.

7.04 Management and Control of Trust Fund.

Subject to the powers of the Employer as provided in this Trust, and the right (if any) of a Participant to direct the investment of all or a portion of the Trust Fund attributable to such Participant's Accounts under the Plan, the Trustee shall have exclusive authority, discretion and responsibility to manage and control the assets of the Trust Fund in accordance with such short and long-term needs of the Plan as are determined by the Trustee, and in accordance with the standards set forth in Section 7.02 hereof, except to the extent that the Trustee has delegated such authority, discretion and responsibility to one or more Investment Managers as provided in Section 7.05 hereof.

- (a) The Trustee may invest the Trust assets in any investment enumerated in ORS 294.035 or otherwise allowed by Oregon law.
- (b) The Trustee may hold cash awaiting investment and keep such portion of the Trust in cash or cash balances, without liability for interest, in such amounts as may from time to time be deemed to be reasonable and necessary to meet obligations under the Plan, or otherwise to be in the best interests of the Plan.
- (c) Notwithstanding the foregoing provisions of this Section 7.04, the Trustee shall invest all or a portion of a Participant's Accounts under the Plan as directed by the Participant in accordance with the terms of the Plan and the policies and practices established by the Employer. Except to the extent otherwise required by law, the Trustee is not liable or responsible for any loss resulting by reason of any investment or reinvestment made by the Trustee at the direction of a Participant, and therefore the Trustee is relieved of any

duty to review from time to time such property included in the Trust Fund pursuant to a Participant's investment direction.

- (d) No amendment to the Plan or Trust shall enlarge the duties or responsibilities of the Trustee without its written consent thereto.
- (e) In the event of the termination of this Trust, as provided herein, the Trustee shall dispose of the Trust Fund in accordance with the provisions hereof and of the Plan. Until the final distribution of the Trust Fund, the Trustee shall continue to have all powers provided hereunder as necessary or expedient for the orderly liquidation and distribution of the Trust Fund. No part of the Trust Fund shall be used for or diverted into purposes other than the payment of expenses properly chargeable to the Trust Fund and payments of benefits to Participants and their Beneficiaries, except as provided in Section 7.09.

7.05 Investment Policy.

- (a) The Committee from time to time shall determine the Plan's short-term and long-term financial needs, with which the investment policy of the Trust shall be appropriately coordinated, and such needs shall be communicated from time to time to the Trustee, Investment Managers or others having any responsibility for management and control of the Trust assets.
- (b) Subject to subsection (c) below, the Trustee shall have exclusive authority and discretion to select the investment funds to be made available to Participants under the Plan.
- (c) The Employer may in its discretion appoint one or more Investment Managers to manage (including the power to direct the Trustee to acquire and dispose of) any assets of the Plan pursuant to an investment policy coordinated with the needs of the Plan as determined by the Trustee, in which event the Trustee shall not be liable for the acts or omissions of any such Investment Manager or be under an obligation to invest or otherwise manage any asset of the Plan which is subject to the management of any such Investment Manager except as directed. Any such Investment Manager shall acknowledge in writing the person's status as a fiduciary with respect to the Plan.
- (d) The term "Investment Manager" shall mean: (i) a registered investment adviser under the Investment Advisers Act of 1940; (ii) a bank as defined in the Investment Advisers Act of 1940; or (iii) an insurance company qualified under the laws of more than one state to manage, acquire and dispose of plan assets.

7.06 Trustee's Administrative Powers.

Except as otherwise provided elsewhere in the Trust, the Trustee shall have the following powers, rights and duties in addition to those provided elsewhere in the Trust or by law:

- (a) To retain, manage, improve, repair, insure, operate and control any asset of the Trust Fund;
- (b) To sell, exchange, convey, transfer, partition, grant options with respect to, lease for any term (even though such term extends beyond the duration of this Trust or commences in the future), mortgage, pledge, abandon, or otherwise deal with, or dispose of, any asset of the Trust Fund in such manner, for such consideration and upon such terms and conditions as the Trustee, in their discretion, shall determine, and no person dealing with

the Trustee shall be required to monitor the application of the purchase money or to inquire into the validity, expediency or propriety of any such sale or other disposition;

- (c) To employ such accountants, actuaries, attorneys and agents as may be reasonably necessary in collecting, managing, administering, investing, distributing and protecting the Trust Fund or the assets thereof;
- (d) To settle, submit to arbitration, compromise, contest, prosecute or abandon claims and demands in favor of, or against, the Trust Fund;
- (e) To borrow or raise monies for the purpose of the Trust Fund (except from the Employer, a Trustee, a fiduciary or any party in interest) in such amount, and upon such terms and conditions as the Trustee deems advisable, and for any sum so borrowed to issue their promissory notes as Trustee and secure the repayment thereof by pledging or mortgaging all or any part of the Trust Fund upon such terms and conditions as the Trustee may deem desirable; and no person lending money to the Trustee shall be bound to monitor the application of the money loaned or inquire into the validity, expediency or propriety of any such borrowing;
- (f) To vote any corporate stock either in person or by proxy for any purpose; to exercise any conversion privilege, subscription right or any other right or option given to the Trustee as the owner of any asset of the Trust Fund and to make any payments incidental thereto; to consent to, to dissent from and to oppose or take any action in connection with, and receive and retain any securities resulting from any reorganization, consolidation, merger, readjustment of the financial structure, sale, lease or other disposition of the assets of any corporation or other organization, the securities of which may be an asset of the Trust Fund;
- (g) To organize and incorporate (or participate in the organization or incorporation of) under the laws of any state, a corporation for the purpose of acquiring and holding title to any property which the Trustee are authorized to acquire for the Trust Fund and to exercise with respect thereto any of the powers, rights and duties they have with respect to other assets of the Trust Fund;
- (h) To cause any asset of the Trust Fund to be issued, held or registered in their individual names or in the names of their nominee, or in such form that title will pass by delivery, provided the records of the Trustee shall indicate the true ownership of such asset; and
- (i) To exercise any of the powers and rights of an individual owner with respect to any property of the Trust Fund, and to perform any and all other acts which in their judgment are necessary or appropriate for the proper administration of the Trust Fund, although such powers, rights and acts are not specifically enumerated in the Trust.

7.07 Investment Funds and Elections.

- (a) The Trust Fund shall be divided into separate investment funds ("Investment Funds") as provided in this Section 7.07. Each Participant shall have an undivided interest in the value of the Participant's Accounts under each Investment Fund. For purposes of the allocation of income and periodic valuations, each Investment Fund shall be considered separately. No Investment Fund shall share in the gains or losses of any other, and no Investment Fund shall be valued by taking into account any assets of or distributions from any other.

- (b) The particular Investment Funds to be made available under the Plan shall be determined from time to time in accordance with the general investment policy established by the Employer. The selection shall be made by the Committee. At all times, however, there shall be made available at least three separate Investment Funds, each of which is diversified and has materially different risk and return characteristics. The Employer may from time to time make available additional Investment Funds adhering to the Plan's general investment policy, and may also direct that Investment Funds with similar investment objectives be consolidated.
- (c) In addition to the Investment Funds, the Committee may make available a segregated self-directed brokerage account option, and may establish special rules and procedures, including limitations, with respect to the investment of Accounts in such an option. Except as otherwise provided in the Committee's rules and procedures, the self-directed brokerage account option shall be treated as an Investment Fund for purposes of the provisions of this Section 7.07.
- (d) Upon becoming eligible to participate in the Plan, a Participant may make an election directing that the contributions to be made by the Participant or on his or her behalf under the Plan be credited to one or more of the Investment Funds. Each Participant may thereafter also elect to change the investment of all future contributions to the Plan. A Participant (or a Beneficiary of a deceased Participant) may elect to transfer amounts from one Investment Fund to another. Such elections shall be subject to administrative rules and procedures, and any other guidelines and limitations, pertaining to investment elections as adopted by the Plan or Services Provider from time to time in order to effect the efficient administration of the Plan. Any costs charged by an Investment Fund with respect to a transfer of assets may be charged to the Account of the Participant electing such transfer.
- (e) The election of a Participant to transfer amounts between or among Investment Funds shall be made with the Services Provider.
- (f) In the event that a Participant or Beneficiary fails to make an Investment Fund election with respect to any contributions or other amounts, then such amounts shall be credited to an Investment Fund that is designated by the Employer as the Default Investment Fund with respect to such Participant or Beneficiary. Once contributions are allocated on a default basis to the Default Investment Fund, the Participant may subsequently elect to change the investment of all future contributions to the Plan pursuant to subsection (c) above. A Participant or Beneficiary may also elect to transfer amounts held in a Default Investment Fund to another Investment Fund made available to the Participant or Beneficiary under the Plan pursuant to the foregoing provisions of this Section 7.07. Such transfers may be requested and shall be made in accordance with the general procedures of the Plan.

7.08 Limitation on Reversions.

The Employer has no beneficial interest in the Trust Fund and no part of the Trust Fund shall ever revert or be repaid to the Employer directly or indirectly, provided, however, that if a contribution or any portion thereof is made by the Employer through a mistake of fact, the Trustee shall, upon written request of the Employer, return the contribution or such portion, reduced by any losses attributable thereto.

7.09 Appointment of Successor Trustee.

The Employer may resign as Trustee, but only if the Employer has appointed a successor Trustee and the successor Trustee agrees in writing to serve as such.

7.10 Protection of Persons Dealing with the Trust.

No person dealing with the Trustee shall be required or entitled to monitor the application of any money paid or properly delivered to the Trustee, or determine whether or not the Trustee is acting pursuant to authorities granted to it hereunder or to authorizations or directions herein required.

7.11 Tax-Exempt Status.

The Trust is hereby designated as constituting a part of the Plan intended to qualify under Code §457 and to be exempt from taxation pursuant to Code §457(g)(2)(A). Until advised otherwise, the Trustee may presume that the Trust is so qualified and tax exempt.

7.12 Fiscal Year.

The fiscal year of the Trust shall be the twelve-month period beginning on January 1 and ending on December 31.

ARTICLE VIII

Miscellaneous

8.01 Amendment or Termination.

This Plan may be modified, amended or terminated in whole or in part (including retroactive amendments) at any time by the Employer. No amendment or termination of the Plan shall reduce or impair the rights of any Participant or his or her Beneficiary that have already accrued, except as may be permitted or required by law. Any amendment to the Plan or to any part of the Plan, or the termination of the Plan, shall be effectuated by an instrument in writing reflecting that such change has been authorized by the Employer. Any such amendment will be effective as of the date specified in said instrument, or, if no date is so specified, as of the date of execution or adoption of said instrument. An instrument regarding the amendment or termination of the Plan that is executed by or ratified in writing by the City Manager shall be conclusive evidence of the adoption and effectiveness of the instrument. Upon termination of the Plan, the Employer shall direct the distribution of all amounts credited to each Participant's Accounts in accordance with the provisions of Article IV.

8.02 No Guarantee of Employment.

Neither the creation of the Plan, nor anything contained in the Plan, shall be construed as giving any Participant hereunder or other employee of the Employer any right to remain in the employ of the Employer, any equity or other interest in the assets, business or affairs of the Employer, or any right to complain about any action taken or any policy adopted or pursued by the Employer.

8.03 Non-Alienation of Benefits.

Subject to Sections 8.04 and 8.05 below, no Participant shall have the power to alienate, transfer, assign, anticipate, mortgage or otherwise encumber the Participant's interest in the Plan. No interest of the Participant in the Plan shall be subject to garnishment, attachment or other seizure of sequestration for the payment of debts, judgments, alimony or a separate maintenance owed by such Participant or be transferred by operation of law in the event of bankruptcy, insolvency or otherwise.

8.04 Qualified Domestic Relations Order.

Notwithstanding the provisions of Section 8.03 above, a Participant's Accounts, or any portion thereof, shall be distributed in accordance with the terms of any domestic relations order that the Services Provider, in its sole discretion, determines to be a Qualified Domestic Relations Order (QDRO) described in Section 414(p) of the Code. Such distribution may be made to the Alternate Payee as soon as practicable, irrespective of whether or not the Participant has then attained "earliest retirement age" as defined under Section 414(p)(4)(B) of the Code. The immediate distribution to the Alternate Payee does not also give the Participant the right to then receive a distribution. An Alternate Payee with respect to a QDRO who is the spouse or former spouse of the Participant shall be treated for tax purposes as the distributee of any distribution made to such Alternate Payee pursuant to the QDRO, and shall have the same rights as a Participant in regard to the direct transfer of distributions to an eligible retirement plan as prescribed in Section 4.10.

8.05 IRS Levy.

Notwithstanding Section 8.03 above, the Employer may direct that payment be made from a Participant's or Beneficiary's Account in an amount that the Employer finds is lawfully demanded under a levy issued by the Internal Revenue Service, or is sought to be collected by the United States Government under a judgment resulting from an unpaid tax assessment against the Participant or Beneficiary.

8.06 Mistaken Contributions.

If any contribution (or any portion of a contribution) by a Participant is made to the Plan by a good faith mistake of fact, then within one year after the payment of the contribution, and upon receipt in good order of a proper request approved by the Employer, the amount of the mistaken contributions (adjusted for any income or loss in value, if any, allocable thereto) shall be returned directly to the Participant or, to the extent required or permitted by the Employer.

8.07 Procedure When Distributee Cannot Be Located.

The Services Provider shall make all reasonable attempts to determine the identity and address of a Participant or a Beneficiary entitled to benefits under the Plan. For this purpose, a reasonable attempt may include (a) the mailing by certified mail of a notice to the last known address shown on the Employer's or Services Provider's records, and (b) notification sent to the Social Security Administration or Internal Revenue (under their respective programs to identify payees).

If the Services Provider is unable to locate such a person entitled to benefits hereunder, or if there has been no claim made for such benefits, the Plan shall continue to hold the benefits due such person until, in the Employer's sole discretion, the Plan is required to take other action under applicable law. Such action may include the forfeiture of the Participant's or Beneficiary's Accounts. Such forfeitures will be applied toward the payment of expenses of the Plan. If so forfeited, and if a person subsequently files a valid claim for such benefit, then such forfeited amount shall be restored to the Participant's or Beneficiary's Account (without interest) and thereupon distributed in accordance with the Plan. Such restored amounts shall be provided from the earnings of the Plan or from such other appropriate source.

8.08 Receipts by Participants.

Prior to the time that distributions are to be made hereunder, the Participants, their spouses, Beneficiaries, Alternate Payees, heirs-at-law or legal representatives shall have no right to receive cash or other things of value from the Employer from or as a result of the Plan.

8.09 Interpretation.

The terms of this Plan shall be interpreted and administered in a manner consistent with the requirements of Code §457, in order that the Plan qualify as an Eligible Deferred Compensation Plan within the meaning of said Code Section.

8.10 Controlling Law.

The laws of the State of Oregon shall be controlling state law in all matters relating to the Plan and Trust.

8.11 Severability.

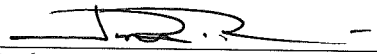
If any provision of this Plan shall be held illegal or invalid for any reason, said illegality or invalidity shall not affect the remaining parts of this Plan, but this Plan shall be construed and enforced as if said illegal or invalid provision had never been included herein.

8.12 Gender and Number.

Whenever used in the Plan, unless the context otherwise indicates, words in the masculine form shall be deemed to include the feminine, and the singular shall be deemed to include the plural.

This City of Eugene Deferred Compensation Plan, as Amended and Restated effective as of January 1, 2012, is approved and accepted.

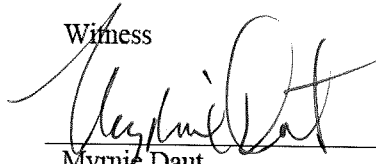
CITY OF EUGENE


By: 
Jon Ruiz
City Manager

Dated: August _____, 2012

9/26/12

Witness


Mymie Daut
Risk Services Division Manager


Dated: August 26, 2012

